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April 9, 2012

Honorable Kiyo A. Matsumoto
United States District Judge
225 Cadman Plaza East
Brooklyn, New York 11201

Re: US vs. Joseph DiMarco
Docket No.: 11 CR 0030(KAM)

Dear Judge Matsumoto:

Joseph DiMarco is scheduled to be sentenced on May 1, 2012 at 5:00 p.m. This letter is submitted in support of my client's request for a sentence of probation.

PLEA AGREEMENT

The defendant entered into a plea agreement with the government which calculated an offense level of 12 and gave a two level reduction for acceptance of responsibility. His final offense level is 10. (para. 2) Additionally, the agreement provides for a 2 level reduction under the terms of a "global plea" arrangement. (para. 15) and the defendant qualifies for this further reduction. (It is noted that his co-defendant, Vito Vizzi, received a two level global plea reduction) DiMarco's final offense level should be 8.

The plea agreement and his presentence report place the defendant in criminal history category I. His sentence range for an offense level of 8 is 0 – 6 months and this makes him eligible for a sentence of probation under the Federal Sentencing Guidelines.

PERSONAL HISTORY

Joseph DiMarco's personal history reflects a hard working, stable and dedicated family man. His father died while Joseph was in high school. He dropped out of school and worked full time to help support his family. For an extended period of time he held two jobs. (PSR, para. 66)

Several years ago he lost his position in a labor union and this led to difficult financial times. He worked in pizza parlors and construction. His wife has been employed for 20 years as a teaching assistant with the New York City Board of Education, but they were unable to keep up with their expenses. They fell behind on the mortgage on their home at 1538 Stadium Avenue in the Bronx and there is now a distinct possibility they may have to face a foreclosure proceeding. (PSR, para. 48)

Currently Joseph works 60 hours per week at Casablanca Pizza, earning \$500.00. Although faced with a difficult financial situation the defendant has continued to work hard in an effort to extricate himself from this burden. He maintains steady employment, has negotiated with his bank to modify the terms of his mortgage (PSR, para 48) and has made a strenuous effort to improve his earning capabilities.

Recently Joseph negotiated with a landlord to operate a neighborhood pizza parlor which was abandoned by its former owner. He hopes to arrange to pay a monthly rent and operate the pizza parlor as the owner. No large initial investment would be required. He has been in the pizza parlor business for a good part of his adult life. The business he hopes to operate is very close to his home and he has established an excellent reputation in his community. It appears this effort has a good chance of being successful. The landlord, however, would like the store to open very quickly so that he can start receiving rent. Joseph faces a prospective jail sentence and this has caused him to delay signing a lease. His sentencing date is scheduled for May 1st. If the court grants his request for a sentence of probation he expects to sign a lease and begin operating this business. The landlord has not said he is willing to wait to sign a lease until Joseph completes serving a jail sentence.

MEDICAL HISTORY

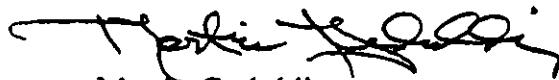
The defendant is a young man, but he suffers from a number of serious medical problems. He has hyperthyroidism disorder, type II diabetes, high cholesterol, high blood pressure and receives medication for all these ailments. (PSR, para. 54-55) The anxiety caused by this case has not helped his medical condition. Joseph understands that he must develop a steady routine and improve his financial standing to alleviate much of the anxiety he has created.

CONCLUSION

As was said earlier, Joseph DiMarco is a responsible and dedicated family man. He has lived within blocks of his mother and sister his entire adult life. (PSR, para. 46) He has an outstanding marriage, which his wife told the probation officer "will outlast whatever sentence is imposed." (PSR, para. 47) He is a man who is willing and able to work very long hours to put his life on the proper path. I have no doubt that this is the last time Joseph will ever appear before a judge to answer to a criminal complaint. I most respectfully ask the court to impose a sentence of probation. This will allow my client to take advantage of a good business opportunity while also providing probation supervision which will satisfy the court that Joseph has turned a leaf.

Thank you for your consideration in this matter.

Yours truly,



Martin Geduldig

MG/jlr

cc: AUSA Allon Lifshitz
USPO Mary Ann Betts